

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/F-3/5290(1)/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 17-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Sales Tax (Amendment)
Bill, 2004

(Bill No. 13 of 2004)

A

BILL

further to amend the Goa Sales Tax Act, 1964
(Act 4 of 1964).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Sales Tax (Amendment) Act, 2004.

(2) Section 2 of this Act shall be deemed to have come into force on the 1st day of April, 1996, and section 3 of this Act shall come into force at once.

2. *Amendment of section 24.*—In section 24 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"), after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) When two or more companies are amalgamated by the Order of a Court/Tribunal or of the Central Government and such Order is to take effect from a date anterior to the date of the Order and such companies have sold or purchased any goods to or from each other during the period commencing from the date on which the Order is to take effect and existing upto the date of the Order, then notwithstanding anything contained in such Order of amalgamation, such transactions of sale shall be included in the turnover of sales of the respective companies and shall be assessed to tax accordingly, and for the purposes of this Act, the said companies shall be treated as distinct companies for entire said period upto the date of the said Order, and the Registration Certificates of the said companies shall be cancelled or amended, where necessary, with effect from the date of the said Order of amalgamation."

3. *Insertion of new section 31B.*— After section 31A of the principal Act, the following section shall be inserted, namely:—

"31B. *Establishment of the Goa Consumer Protection and Guidance Fund.*— (1) There shall be established a Fund to be called the Goa Consumer Protection and Guidance Fund (hereinafter, in this section, referred to as "the Fund") into which shall be entered and

transferred under appropriation duly made by rules in this behalf, the amounts forfeited and recovered, except amounts refunded to the purchasers, after deducting the expenses of collection and recovery as determined by the Government.

(2) No sum from the Fund shall be paid or applied for any purpose other than the purpose specified in sub-section (3).

(3) The Fund shall be administered in the prescribed manner. The amount in the Fund shall be utilized for meeting the expenses of any activities related to consumer protection and guidance as the Government may direct and also for giving grant in the prescribed manner to any voluntary consumer organization, society, association, body or institution engaged in protection of interests of the consumers and having such qualifications as may be prescribed."

Statement of Objects and Reasons

Whenever two or more companies registered under the Companies Act, 1956 (Act 1 of 1956), are amalgamated by Order of the Court/Tribunal or of the Central Government with retrospective effect, the amalgamated company claim refund of tax stating that there is no sale but only transfer between the amalgamated companies, from the date, Order of amalgamation takes effect. The Bill seeks to insert sub-section (7) to section 24 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) to provide for transactions of sale upto the date of Order of amalgamation of Court/Tribunal shall be included in turnover of sales and assessed accordingly, as these transactions fall within the purview of definition of "sale" contained in the said Act, 1964 and sales tax is paid and collected on the same.

Under sub-section (2) of section 31A of the said Act, 1964, there exists a provision for forfeiture to the Government of any sum collected by way of tax by any person in contravention of sub-section (2) of section 7A or of section 16. There is, however, no provision in the said Act, 1964, for establishment of Fund for crediting such amounts.

The Bill seeks to provide establishment of the Goa Consumer Protection and Guidance Fund by inserting section 31B in the said Act.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to make rules for appropriating the amount to the Fund and manner of administering and giving of grants from the Fund.

These delegations are of normal character.

Assembly Hall,
Porvorim-Goa.
10th February, 2004.

MANOHAR PARRIKAR
Chief Minister

Assembly Hall,
Porvorim-Goa.
10th February, 2004.

S. A. NARVEKAR
Secretary (Legislature)

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, Kidar Nath Sahani, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax (Amendment) Bill, 2004.

ANNEXURE

Extract of the Goa Sales Tax Act, 1964

Section 24

24. Special Provision Regarding Liability in Certain Cases.

(1) Where a dealer, liable to pay tax under this Act, dies then,

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax due from such dealer under this Act, and

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax (including any penalty) due from such dealer under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid, or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu undivided family and the joint family property is partitioned amongst the various members or groups of members, then each member or groups of members, and the legal representative of any such member who is deceased, notwithstanding such partition shall be jointly and severally liable to pay the tax (including any penalty) due from the dealer under this Act, upto the time of the partition but has remained unpaid, or is assessed after partition.

(3) Where a dealer liable to pay tax under the Act is a firm, or other association of persons, and such firm or association of persons, is partitioned, or dissolved, as the case may be, then every person who was a partner or member, and the legal representative of any such person or member who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of tax, penalty, or other amount payable under the Act by such firm or association of persons, whether such tax including any penalty has been assessed before such partition or dissolution but has remained unpaid or is assessed after partition or dissolution.

(4) Where a dealer, liable to pay tax, under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any changes in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person the dealer and the person succeeding shall jointly and severally be liable to pay the tax (including any penalty) due from the dealer under this Act, upto the time of such transfer, disposal or change, whether such tax (including any penalty) has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where the dealer, liable to pay tax under this—

(a) is the guardian of a ward on whose behalf, the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or, as the case may be the beneficiary shall be liable to pay the tax (including any penalty) due from the dealer upto the time of termination of the guardianship or trust, whether such tax (including any penalty) has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a dealer, liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then such person shall be liable to pay tax on the sales of goods made by him on or after the date of succession, and shall (unless he already holds a certificate of registration) within 30 days thereof apply for registration:

Provided that where such person re-sells, or uses within Goa, in the manufacture of goods for sale any goods

purchased by the dealer while carrying on business before such succession he shall be entitled to such deductions in respect thereof as are permissible under sub-section (3) of section 7, had the re-sale or use in the manufacture of goods for sale, as the case may be, been effected by the dealer himself.

Section 31A

31A. *Penalty for contravening provisions regarding collection of Tax by dealers:*

(1) If the Commissioner is satisfied that any person has acted in contravention of the provisions of sub-section (2) of section 7A or section 16, he may, after giving such person a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times the tax collected in contravention of the said provision.

(2) Any sum collected by way of tax by any person in contravention of sub-section (2) of section 7A or of section 16 shall be forfeited to the State Government in addition to penalty leviable under sub-section (1), after giving such person reasonable opportunity of being heard.

LA/F-3/5290(2)/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 17-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Appropriation Bill, 2004

(Bill No. 1 of 2004)

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 2003-04.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation Act, 2004.

2. *Issue of Rs. 3,65,48,80,000 out of the Consolidated Fund of the State of Goa for the financial year 2003-04.*— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column (5) of the Schedule amounting in the aggregate to the sums of three hundred sixty five crores forty eight lakhs and eighty thousand rupees towards defraying the several charges which will come in the course of payment during the financial year 2003-04 in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*— The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE
(See sections 2 and 3)

(Rs. in lakhs)

Demand No.	Services and purposes	Sums not exceeding		Total
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	
(1)	(2)	(3)	(4)	(5)
1	Legislature Secretariat ...	27.00	—	27.00
A1	Raj Bhavan (Charged) ...	—	32.55	32.55
2	General Administration and Coordination ...	129.86	—	129.86
3	District and Sessions Court (North Goa) ...	66.83	—	66.83
4	District and Sessions Court (South Goa) ...	38.27	—	38.27
5	Prosecution ...	27.81	—	27.81
6	Election Office ...	82.81	—	82.81
7	Settlement and Land Records ...	70.46	—	70.46
A2	Debt Services (Charged) ...	—	28560.81	28560.81
10	Notary Services ...	5.16	—	5.16
13	Transport ...	31.50	—	31.50

(1)	(2)	(3)	(4)	(5)
14	Goa Sadan ...	17.89	—	17.89
15	Collectorate, North Goa ...	9.46	—	9.46
17	Police ...	633.29	—	633.29
18	Jails ...	43.45	—	43.45
19	Industries, Trade and Commerce ...	—	0.20	0.20
21	Public Works ...	2667.16	39.79	2706.95
23	Home ...	17.00	—	17.00
24	Home Guards and Civil Defence ...	4.50	—	4.50
26	Fire and Emergency Services ...	164.44	—	164.44
28	Administrative Tribunal ...	2.87	—	2.87
34	School Education ...	299.55	—	299.55
35	Higher Education ...	615.74	—	615.74
36	Technical Education ...	1.00	—	1.00
37	Government Polytechnic, Panaji ...	35.56	—	35.56
38	Government Polytechnic, Bicholim ...	3.47	—	3.47
42	Sports ...	97.20	19.76	116.96
43	Art and Culture ...	103.70	—	103.70
44	Goa College of Art ...	3.25	—	3.25
46	Museum ...	24.87	—	24.87
47	Goa Medical College ...	304.45	—	304.45
48	Health Services ...	354.03	—	354.03
49	Institute of Psychiatry and Human Behaviour ...	43.00	—	43.00
51	Goa Dental College ...	72.94	—	72.94
52	Labour ...	20.85	—	20.85
53	Food and Drugs Administration ...	15.08	—	15.08
55	Municipal Administration ...	131.00	—	131.00

(1)	(2)	(3)	(4)	(5)
56 Information and Publicity	10.00	—	10.00	
58 Women and Child Development	6.00	—	6.00	
59 Factories and Boilers	15.42	—	15.42	
61 Craftsman Training	50.65	—	50.65	
65 Animal Husbandry and Veterinary	42.10	1.50	43.60	
66 Fisheries	16.31	—	16.31	
68 Forests	213.65	—	213.65	
70 Civil Supplies	3.15	—	3.15	
71 Cooperation	184.03	—	184.03	
72 Science, Technology and Environment	18.00	—	18.00	
73 State Election Commission	17.00	—	17.00	
74 Water Resources	67.96	—	67.96	
76 Electricity	500.00	0.05	500.05	
77 River Navigation	140.00	1.41	141.41	
78 Tourism	443.01	—	443.01	
TOTAL	7892.73	28656.07	36548.80	

Statement of Objects and Reasons

The Supplementary Demands for Grants for the year 2003-04 (Second Batch) was presented to the Legislative Assembly on 16th February, 2004. This Bill is introduced in pursuance of Article 204 read with Article 205 of the Constitution of India to provide for the appropriation of certain further sums out of the Consolidated Fund of the State of Goa to meet the expenditure on certain services granted by the Legislative Assembly for those services.

Panaji,

17th February, 2004

MANOHAR PARRIKAR
Chief Minister

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

LA/F-3/5290(3)/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 17-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Public Health (Amendment)
Bill, 2004

(Bill No. 12 of 2004)

A

BILL

further to amend the Goa, Daman and Diu Public Health Act, 1985.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Public Health (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Insertion of new Chapter XA.*— In the Goa, Daman and Diu Public Health Act, 1985 (Act 25 of 1985), after Chapter X, the following new Chapter XA shall be inserted, namely:—

"CHAPTER XA

Supply of potable water, electricity and other essential services

94A. *Power of Government to issue directions.*—

(1) Notwithstanding anything contained in any provisions of this Act, or in any rules, regulations, notifications, orders or in any decree or judgement of any Court, or in any law for the time being in force, the Government may, in appropriate cases, by order, direct any authorities, local bodies, statutory functionaries, or any other functionaries discharging public functions,—

(a) to grant, supply, provide and ensure supply of potable water, electricity, or such other essential services; so declared by the Government under the Goa Essential Services Maintenance Act, 1988 (Act 20 of 1989) or under

any other law for the time being in force, to any person, house, structure, hut, factory, area, locality;

(b) to remove forthwith or within such period as the Government may specify in the order, any filth, nuisance, offensive trade or matter, sewage, or any object causing or likely to cause any disturbance to human senses or to public health, from any land or portion thereof, house, hut, structure, locality, river front, riverine land, port area, seabed, sea, river or nullah, anywhere in the State.

(2) The Government may empower any of the following authorities, by a special or general order, to perform its functions under sub-section (1), namely:—

(a) Health Officer of the concerned area;

(b) Chief Officer of a Municipal Council or the Commissioner of a Corporation, as the case may be;

(c) Director of Health Services;

(d) Collector of the District;

(e) Secretary to the Government, dealing with Public Health Department.

(3) Upon the issuance of an order under sub-section (1) or sub-section (2) by the Government, every authority, local body, statutory functionary or other functionaries and every person thereof referred to in sub-section (1) or sub-section (2), shall be bound to comply with the same and provide and facilitate the provision of potable water, electricity or any other essential services, as the case may be, and for this purpose, every authority, local body, statutory functionaries or other functionaries and every person thereof, referred to in sub-section (1) or sub-section (2), shall have all powers to lay necessary lines, cables, pipes, poles, pipelines, and to provide necessary infrastructure, subject to the provisions of sub-section (4) hereof.

Provided that if any order issued by an authority empowered under sub-section (2) in respect of the nuisance referred to in clause (b) of sub-section (1) has not been complied with within the stipulated period, then, the authority empowered under sub-section (2) may order any statutory person or body to comply with such order within such further time as may be specified in the order and recover the cost incurred in removing such

nuisance from the person responsible for such nuisance as an arrears of land revenue under the law for the time being in force.

(4)(a) In the event of any private right being affected or dispute having arisen, or any person, owner or occupier being entitled to any compensation, either under the Electricity Act, 2003 (Central Act 36 of 2003), the Land Acquisition Act, 1894 (Central Act 1 of 1894) or any other law for the time being in force, rights of such person to determine, claim and receive such compensation shall remain unaffected.

(b) In the event of any dispute as regards land, building, apportionment, encroachment, including legality or illegality of structure or occupation of any structure by any person or any question related or incidental thereto, such dispute, lis, proceedings, right, privilege shall remain unaffected and shall not prejudice any person in any way whatsoever.

(c) Providing water supply connection, electricity supply connection or any other essential service, shall not in any way be taken to have regularised, validated or legalised any such structure, premises, house, hut, area or occupation of or by any such person, as, an order under sub-section (1) is relatable to all matters of health only.

94B. Bar of Courts' jurisdiction to entertain suits.— Any order passed by or on behalf of the Government under section 94A shall not be called in question in any Court of law and no Court shall have jurisdiction to entertain, try or dispose of any proceedings, suit or application challenging, questioning or prohibiting, directly or indirectly, the order under section 94A:

Provided however that, the right of any person, body, authority, owner or occupier of any land or structure, to receive any compensation subsequent to such supply, under any law, shall not be affected.

94C. - Punishment for non-compliance with order under section 94A.— Any person or statutory functionary or other functionaries or the principal officer of any authority or local body, responsible for complying with the order under section 94A, disobeying or not complying forthwith, or abetting violation of any orders under section 94A shall, on a trial by a Magistrate, be liable to punishment with imprisonment for a term which may extend to six months or a fine which may extend to Rs. 50,000/- or both.

94D.— *Provisions of this Chapter to be in addition to and not in derogation of other provisions or laws.*— The provisions of this Chapter shall be in addition to and not in derogation of any other power under any other provisions of this Act or any other law for the time being in force."

Statement of Objects and Reasons

The Goa, Daman and Diu Public Health Act, 1985 (Act 16 of 1985), as it stands today, does not provide for contingencies in relation to provision of certain services such as supply of potable water, electricity and such other essential services, so declared by the Government under the Goa Essential Services Maintenance Act, 1988 (Act 20 of 1989) or under any other law for the time being in force, to the members of the public nor does it cater to certain issues which has direct bearing on public health and sanitation, including removal of any filth, nuisance, sewage etc.

By this legislation, the said Act, 1985 is proposed to be amended so as to ensure smooth extension of these infrastructures facilities, which are critical to public health, so also empower the Government to discharge such functions which cause disturbance to human senses or to public health.

This Bill seeks to achieve the above objectives.

Memorandum Regarding Delegated Legislation

Proposed section 94 A(1) empowers the Government to issue directions to any authorities, local bodies, statutory functionaries or any other functionaries discharging public functions, for the purposes of clauses (a) and (b) of said sub-section (1) of section 94 A.

Sub-section (2) of said section 94 A empowers the Government to issue a special or general order empowering the authorities as specified therein to perform its functions under sub-section (1).

These delegations are of normal character.

Financial Memorandum

No financial implications are involved in this Bill.

Assembly Hall
Porvorim-Goa
Dated : 14-2-04

Dr. Suresh Amonkar
Minister for Health

Assembly Hall
Provorm, Goa
Dated : 14-2-04

S. A. Narvekar
Secretary (Legislature)

LA/F-3/5317/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Appropriation (Vote on Account) Bill, 2004

(Bill No. 2 of 2004)

A

BILL

to provide for the withdrawal of certain further sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 2004-05.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation (Vote on Account) Act, 2004.

2. *Withdrawal of Rs. 9,21,48,00,000 from and out of the Consolidated Fund of the State of Goa for the financial year 2004-05.*— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column (5) of the Schedule amounting in the aggregate to the sums of nine hundred twenty one crores and forty eight lakhs rupees towards defraying the several charges which will come in the course of payment during the financial year 2004-05 in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*— The sums deemed to have been authorised to be paid from and out of the Consolidated Fund of the State of Goa under this Act, shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the said financial year.

THE SCHEDULE (See sections 2 and 3)				
(Rs. in lakhs)				
Demand No.	Services and purposes	Sums not exceeding		Total
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	
(1)	(2)	(3)	(4)	(5)
1	Legislature Secretariat ...	106.43	6.00	112.43
A1	Raj Bhavan (Charged)...	—	43.62	43.62
2	General Administration and Coordination ...	406.48	—	406.48
3	District and Sessions Court (North Goa) ...	107.66	—	107.66
4	District and Sessions Court (South Goa) ...	88.20	—	88.20
5	Prosecution ...	41.12	—	41.12
6	Election Office ...	49.19	—	49.19
7	Settlement and Land Records ...	221.79	—	221.79
8	Treasury and Accounts Administration, North Goa ...	3420.75	—	3420.75
9	Treasury and Accounts Administration, South Goa ...	28.06	—	28.06
A2	Debt Services (Charged) ...	—	20597.78	20597.78
10	Notary Services ...	34.45	—	34.45
11	Excise ...	62.30	—	62.30
12	Sales and Entertainment Tax ...	95.54	—	95.54
13	Transport ...	609.96	—	609.96
A3	Goa Public Service Commission (Charged) ...	—	16.75	16.75
14	Goa Sadan ...	21.48	—	21.48
15	Collectorate, North Goa...	138.86	—	138.86
16	Collectorate, South Goa...	108.55	—	108.55
17	Police ...	1419.21	—	1419.21
18	Jails ...	91.02	—	91.02

(1)	(2)	(3)	(4)	(5)
19	Industries, Trade and Commerce ...	762.43	—	762.43
20	Printing and Stationery...	78.31	—	78.31
21	Public Works ...	8745.97	—	8745.97
22	Vigilance ...	15.50	—	15.50
23	Home ...	16.87	—	16.87
24	Goa Public Men's Corruption - Investigation and Enquiries	0.25	—	0.25
25	Home Guards and Civil Defence ...	61.59	—	61.59
26	Fire and Emergency Services ...	115.20	—	115.20
27	Official Language ...	47.25	—	47.25
28	Administrative Tribunal...	7.61	—	7.61
29	Public Grievances ...	5.44	—	5.44
30	Lotteries ...	17140.00	—	17140.00
31	Panchayats ...	950.44	—	950.44
32	Finance ...	1488.75	—	1488.75
33	Revenue ...	76.00	—	76.00
34	School Education ...	5484.80	—	5484.80
35	Higher Education ...	1120.84	—	1120.84
36	Technical Education ...	168.72	—	168.72
37	Government Polytechnic, Panaji ...	116.66	—	116.66
38	Government Polytechnic, Bicholim ...	36.28	—	36.28
39	Government Polytechnic, Curchorem ...	36.28	—	36.28
40	Goa College of Engineering ...	206.89	—	206.89
41	Goa Architecture College...	26.21	—	26.21
42	Sports ...	430.88	—	430.88
43	Art and Culture ...	274.59	—	274.59
44	Goa College of Art ...	33.39	—	33.39

(1)	(2)	(3)	(4)	(5)
45 Archives and Archaeology	51.06	—	51.06	
46 Museum	26.85	—	26.85	
47 Goa Medical College	991.06	—	991.06	
48 Health Services	1598.12	—	1598.12	
49 Institute of Psychiatry and Human Behaviour	106.92	—	106.92	
50 Goa College of Pharmacy	46.93	—	46.93	
51 Goa Dental College	65.46	—	65.46	
52 Labour	186.33	—	186.33	
53 Food and Drugs Administration	38.30	—	38.30	
54 Town and Country Planning	183.67	—	183.67	
55 Municipal Administration	1194.63	—	1194.63	
56 Information and Publicity	225.64	—	225.64	
57 Social Welfare	1142.01	—	1142.01	
58 Women and Child Development	500.90	—	500.90	
59 Factories and Boilers	29.78	—	29.78	
60 Employment	22.18	—	22.18	
61 Craftsman Training	309.25	—	309.25	
62 Law	34.24	—	34.24	
63 Rajya Sainik Board	5.63	—	5.63	
64 Agriculture	627.19	—	627.19	
65 Animal Husbandry and Veterinary Services	417.79	—	417.79	
66 Fisheries	148.83	—	148.83	
67 Ports Administration	110.72	—	110.72	
68 Forests	354.68	—	354.68	
69 Youth Affairs	70.19	0.03	70.22	
70 Civil Supplies	616.78	—	616.78	
71 Cooperation	823.62	—	823.62	

(1)	(2)	(3)	(4)	(5)
72 Science, Technology and Environment	277.85	—	277.85	
73 State Election Commission	8.59	—	8.59	
74 Water Resources	2109.18	8.25	2117.43	
75 Planning, Statistics and Evaluation	73.22	—	73.22	
76 Electricity	13123.54	—	13123.54	
77 River Navigation	208.99	—	208.99	
78 Tourism	779.61	3.00	782.61	
79 Goa Gazetteer	3.59	—	3.59	
80 Legal Metrology	18.90	—	18.90	
81 Appropriation to the Contingency Fund	—	—	—	
82 Information Technology	409.25	—	409.25	
83 Mines	32.89	—	32.89	
TOTAL	71472.57	20675.43	92148.00	

Statement of Objects and Reasons

This Bill is introduced in pursuance of Article 206(1) of the Constitution of India to provide for the appropriation out of the Consolidated Fund of the State of Goa, of the moneys required to meet the expenditure charged on the Consolidated Fund of the State of Goa and the grants made in advance by the Goa Legislative Assembly in respect of the estimated expenditure of the Government of Goa for three months i. e. April to June, 2004.

Panaji,
19th February, 2004

MANOHAR PARRIKAR
Chief Minister

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

LA/F-3/5318/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 19-2-2004 is hereby published for general information in pursuance of the provisions of Rule—138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa Sales Tax & Luxury Tax
(Settlement of Arrears by Hoteliers)
Bill, 2004**

(Bill No. 14 of 2004)

A

BILL

to provide for the expeditious enforcement of payment of arrears of tax, relating to the period from 1-4-1999 to 31-3-2003 by hoteliers under the Sales Tax Law and Luxury Tax Law as in force in the State of Goa, by way of settlement, waiving interest and penalty.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

(a) “arrears of tax, penalty or interest” means—

(i) tax, by whatever name called, payable by a hotelier upon assessment or otherwise under the relevant Act in respect of the specified period; or

(ii) penalty imposed upon a hotelier for default in furnishing returns and in payment

of tax in accordance with the provisions of the relevant Act in respect of the specified period; or

(iii) interest payable by a hotelier under the relevant Act in respect of the specified period;

(b) “applicant” means a hotelier as defined in clause (e) hereto and include legal heirs, successors, assignees or nominees of such hotelier, where the business has ceased to exist or has been discontinued prior to the date of coming into force of this Act;

(c) “designated authority” means the authority specified in section 3;

(d) “Government” means the Government of Goa;

(e) “hotelier” shall mean and include those individuals, Companies or partnership concerns who are registered as hoteliers under the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988) and engaged in the business of providing residential accommodation to the public and/or those registered under the Goa Sales Tax Act, 1964 (Act 4 of 1964) and engaged in the business of selling or supplying cooked food and non-alcoholic beverages, as the case may be;

(f) “relevant Act” means,—

(i) the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(ii) the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988);

(iii) the Central Sales Tax Act, 1956 (Act 74 of 1956);

(g) “specified period” means period commencing from 1st day of April, 1999 and ending with 31st day of March, 2003.

(2) Unless there is anything repugnant to the subject or context, all expressions used in this Act, which are not defined, but defined or used in the relevant Act, shall have the same meaning as assigned to them in the relevant Act.

3. *Designated authority.*— For carrying out the purposes of this Act, the authorities referred to in

sections 3(2)(a) and 3(2)(aa) of the Goa Sales Tax Act, 1964 (Act 4 of 1964), or such other authority as the Commissioner may, under the relevant Act, by order made in that behalf nominate, shall be the designated authority and such authority shall have jurisdiction over such area or areas as exercised by it under the relevant Act.

4. *Eligibility for settlement.*— (1) Subject to other provisions of this Act, the applicant shall be eligible for settlement of arrears of tax, penalty and interest in respect of specified period, whether assessed or not, provided full payment of arrears of tax under the relevant Act is made on or before 31st day of March, 2004.

(2) If the assessment has not been taken up and returns are not filed in respect of specified period, either partly or wholly, the applicant shall furnish such returns alongwith the application for settlement.

(3) In case any appeal, revision or review has been filed and the arrears of tax, penalty and interest relating to specified period are disputed therein, the applicant shall pay by 31st day of March, 2004 the amount of tax assessed under the relevant Act.

(4) The hoteliers who are in default in payment of any dues on the date of filing of the application for settlement other than those which are in dispute in any appeal, revision or review, relating to the period prior to 1-4-1999, shall not be eligible for settlement.

5. *Application by the applicant.*— (1) An application, in duplicate, for the purpose of section 4 shall be made to the designated authority by an applicant in the form specified in Part I of the Schedule appended hereto on or before 31st day of March, 2004 separately for each of the years under each of the relevant Acts accompanied by receipted copies of chalans in proof of payment. The Government, by notification in the Official Gazette, may extend the said date including the one mentioned in sub-sections (1) and (3) of section 4 for further period not exceeding three months. The designated authority shall verify the correctness of the particulars furnished in the application with reference to connected records available with the assessing authority, appellate authority or any other authority with whom such records may be available, as the case may be.

(2) If the assessment of the specified period has been completed and the matter thereof is pending with reviewing, appellate or revisional authority, the applicant shall forward a copy of the application made under sub-section (1) to authority before whom the review, appeal or revision, as the case may be, is pending, within fifteen days from the date of making of such application before the designated authority.

6. *Settlement of arrears and issue of certificate of settlement.*— (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay i.e. full amount of tax payable under the relevant Act for the specified period and also the undisputed dues for the period prior to 1st April, 1999, shall issue a certificate of settlement for arrears, in form as specified in Part II of the Schedule appended hereto, to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount towards penalty and/or interest to which he was liable before settlement.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute, on the ground that no question of settlement arises or rectify or amend a certificate of settlement issued under sub-section (1):

Provided that no order adversely affecting the applicant shall be passed without giving to the applicant any reasonable opportunity of being heard:

Provided further that appeal against the order of the designated authority shall lie with the Commissioner and such appeal shall be made within a period of thirty days from the date of such order.

(3) Where the applicant has paid the full amount of arrears of tax under the relevant Act in settlement under this Act in respect of the specified period, either assessed or payable alongwith returns, the interest and penalty levied or leviable thereof, shall be deemed to have been waived.

(4) If any assessment for the specified period made subsequent to issue of certificate of settlement under this Act results in extra dues other than those for which a certificate of settlement has been issued, the hotelier shall be liable for interest and penalty on such extra dues

assessed in addition to tax payable under the relevant Act.

7. *Bar on re-opening of settled cases.*— A certificate of settlement issued under sub-section (1) of section 6 shall be conclusive as to the settlement and no matter covered by such certificate of settlement shall be re-opened in any proceeding or review or revision under the relevant Act. However, nothing in this section shall prevent concerned Assessing Authority from taking assessment of the applicant as per provisions of the relevant Act if it has not been taken earlier. No interest and penalty shall, however, be leviable on the amount of arrears of tax settled.

8. *Withdrawal of review application, appeal and revision.*— Notwithstanding anything to the contrary contained in any provision in the relevant Acts, the review, appeal or revision for the specified period pending before the reviewing, appellate or the revisional authority, as the case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 6 shall be deemed to have been withdrawn by the applicant from the date of making of the application under sub-section (1) of section 5.

9. *Reviewing, appellate and revisional authority not to proceed in certain cases.*— No reviewing authority, appellate authority or revisional authority shall proceed to decide any review, appeal or revision under the relevant Act relating to any period in respect of which an application has been made by an applicant under section 5:

Provided that such authority shall proceed to decide such review, appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 6 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 6.

10. *Revocation of certificate of settlement.*— (1) Notwithstanding anything contained in section 7 or section 8, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may within one year of date of such certificate, for reasons to be recorded in writing

and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 6.

(2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provisions of section 7 or section 8, stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears of tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act.

11. *No refund of amount paid under the Act.*— Any amount paid by an applicant under this Act shall not be refundable under any circumstances:

Provided that in the case of revocation of a certificate of settlement in accordance with section 10, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

12. *Power to remove difficulties.*— If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order published in the Official Gazette, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Act.

SCHEDULE

PART I

(See Section 5)

Application for settlement of arrears of tax, penalty or interest under section 5 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

To,
The Designated Authority,

I, Proprietor
Partner/Karta/Managing Director/Director/Principal
Officer/Duly authorized Officer/President/Secretary/

/Legal heir/Successor/Assignee or Nominee on behalf of an applicant, being eligible under section 4 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004, hereby apply for settlement of arrears of tax, penalty or interest.

I furnish hereunder the requisite particulars:—

(1) Name of the applicant (here mention the name of the proprietor/partner/company, etc.):

(2) Trade name of the business :

(3) Address of the principal place of business :

(4) Full postal address at which communication to be made :

(5) Number of the certificate of registration under the relevant Act to which the application relates :

(6) (i) Period in respect of assessment of tax/imposition of penalty/determination of interest to which the application relates against which no appeal, revision or review is filed From _____ to _____

(ii) Arrears of tax
Arrears of penalty
Arrears of Interest

(7) Particulars of the appeal or revision pending

(i) (a) the designation of the appellate/revisional authority before whom the appeal revision is pending.

(b) the date of presentation of the appeal/revision so pending before such authority.

(c) the appeal or revision case No.

(ii) Period to which relates From _____ to _____

(a) Arrears of tax in dispute

(b) Arrears of interest in dispute

(c) Arrears of penalty in dispute

(8) Return period for which return(s) is/are filed under section 4(2)

Arrears of tax i.e. tax due

(i) From _____ to _____

(ii)

(iii)

(iv)

(9) The arrears of tax, interest and penalty disputed in appeal or revision or review relating to period prior to 1-4-1999 and subsequent to 31-3-2003.

Year to which relates	No. of appeal/ /revision petition/ /review petition & date of filing	Amount Disputed			Undisputed Amount		
		Tax	Interest	Penalty	Tax	Interest	Penalty

(10) Details of payments Date of Payment Amount paid effected, if any, of undisputed amount of tax, interest and penalty as detailed in column (9) hereinabove

VERIFICATION

I,....., solemnly declare that to the best of my knowledge and belief—

(a) the particulars and information given in this application are correct and complete;

(b) the amount of arrear of tax, interest or penalty shown hereinabove are truly stated and relate to the relevant period as mentioned in this application; and

(c) I/the applicant am/is not otherwise ineligible for making this application in terms of the provisions of the Act.

.....
(Signature)

.....
(Name of the signatory in full)

Place: (Status in relation to the applicant)
Date: Enclosure

(1) Quarterly returns for the quarter ending _____, _____, & _____ alongwith chalans for payment of tax due as per returns (column 8).

(2) Chalans for payment of undisputed amount mentioned in Column (9) and (10).

Date of payment Amount paid

(1)

(2)

(3)

(3) Chalang for payment of assessed tax in respect of specified period for which no appeal, revision or review is pending (column 6).

Date of Payment Amount paid

PART II

(See section 6)

Certificate of settlement issued under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004

On the basis of an application made, by (name of the applicant), who is carrying on/used to carry on the business in the trade name of at (address) and who is/were holding certificate of registration No. under the (name of the relevant Act), it is certified that:

*(1) Arrears of tax, penalty or interest arisen on account of the order of assessment for the period from to against which no appeal is preferred upto has been settled under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

(2) Arrear of tax, penalty or interest for the assessment period which was pending in appeal/revision/ /review before (name of the appropriate appellate/revisional authority), being appeal/revision/review case No., has been settled under sub-section (1) of section 6 of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Act, 2004.

*(3) The interest payable on the amount of tax of Rs. in respect of the period from to is treated as waived alongwith penalty.

ISSUED this day of
Signature
Designation
(Appropriate designated authority)

(Seal)

*Strike out whichever is not applicable.

Statement of Objects and Reasons

The hotel industry in the State of Goa was adversely affected owing to sudden terrorist attack on America on 11th September, 2001. The industry was given partial relief by reducing the tax rates during 2002-03. Still, there are number of hotels which are in arrears of tax. To help and

support them to continue in the business, it was proposed during Budget presentation for the year 2003-04 to formulate a Scheme to waive interest and penalty under the Sales Tax Laws and the Luxury Tax Laws, subject to full payment of dues within the specified period. The waiver of interest and penalty would also encourage prompt payment by hoteliers, speed up recovery and enhance the revenue collection for the year.

The Bill provides for waiver of interest and penalty levied/leviable in respect of the period commencing from 1st day of April, 1999 and ending with 31st day of March, 2003 subject to full payment of tax payable during the said period and also the undisputed dues of the period prior to 1-4-1999, on or before 31-3-2004.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

Memorandum Regarding Delegated Legislation

Clause 5 of the Bill empowers the Government to extend the dates specified therein by notification in the Official Gazette. Clause 12 of the Bill empowers the Government to make order for removing difficulties encountered while implementing provisions of the Act.

The above delegations are of normal character.

Porvorim-Goa. (MANOHAR PARRIKAR)
18th February, 2004. Chief Minister

Assembly Hall, (S. A. NARVEKAR)
Porvorim - Goa. Secretary (Legislature)
18th February, 2004

Governor's Recommendation under Article 207 of the Constitution

In pursuance to article 207 of the Constitution of India, I, Kidar Nath Sahani, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax and Luxury Tax (Settlement of Arrears by Hoteliers) Bill, 2004.

KIDAR NATH SAHANI
Governor.